

SENATE BILL 1060

By Marrero B

AN ACT to amend Tennessee Code Annotated, Title 2,
relative to enacting the "Fair Campaign Practices
Act".

WHEREAS, recent elections across this state have unfortunately become more negative in their tone, focusing less on the issues of the day and more on personal attacks of the candidates; and

WHEREAS, the people of Tennessee are tired of seeing and hearing campaign advertisements and tactics that are designed to smear a candidate rather than to explain ideas of how a candidate intends to govern; and

WHEREAS, the people of Tennessee should be entitled to make informed decisions in voting by having contested elections that are of substance; and

WHEREAS, the Tennessee general assembly understands that the United States Supreme Court has held that political speech is our most protected form of speech, but also understands that certain efforts can be taken to regulate the election process; now, therefore,
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act may be known as the "Fair Campaign Practices Act".

SECTION 2. Tennessee Code Annotated, Section 2-19-142, is amended by designating the existing language as subsection (a) and by adding the following new subsection thereto:

(b)

(1) If a person, corporation, organization, entity, or committee publishes, broadcasts, or distributes, or causes to be published, broadcast or distributed any false and defamatory campaign literature or political advertisement relating to the conduct, fitness, or record of any candidate for public office with

knowledge of the falsity or with reckless disregard of the truth or falsehood, then such person, corporation, organization, entity, or committee shall be liable upon proof by clear and convincing evidence for damages in a defamation action brought by such candidate.

(2) Such damages shall include compensatory damages and punitive damages in such amount as the court may allow.

(3) In any action brought pursuant to this subsection (b), the court may award reasonable attorney's fees and costs to the prevailing party.

(4) A person, corporation, organization, entity, or committee that publishes, broadcasts, or distributes, or causes to be published, broadcast or distributed any false and defamatory campaign literature or political advertisement relating to the conduct, fitness, or record of any candidate for public office shall have forty-eight (48) hours upon being given notice that such campaign literature or political advertisement is false and is considered defamatory to take reasonable steps to correct and to retract such falsehoods. Evidence that a person, corporation, organization, entity, or committee failed to correct and retract falsehoods that may be defamatory after being given notice shall be considered upon the awarding of punitive damages. There shall be a rebuttable inference that a suitable retraction of falsehoods was made if a joint press conference that includes both candidates for the public office is held for the purpose of addressing such alleged falsehoods.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 4. This act shall take effect July 1, 2009, the public welfare requiring it.